

CONTROLLED SUBSTANCE DATABASE**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill recodifies and amends provisions relating to the Controlled Substance Database and requires an individual who is licensed to prescribe a controlled substance, who is applying for a license, or who is renewing a license, to register to use the database and to take a tutorial and pass a test relating to the database and the prescribing of a controlled substance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ recodifies provisions relating to the Controlled Substance Database into a new chapter known as the Controlled Substance Database Act;
- ▶ modifies provisions relating to accessing database information for certain legal proceedings;
- ▶ requires an individual who is licensed to prescribe a controlled substance, who is applying for a license, or who is renewing a license to:
 - register to use the database; and
 - take a tutorial and pass a test relating to the database and the prescribing of controlled substances;
- ▶ describes the penalties that may be imposed by Division of Occupational and Professional Licensing (DOPL) on an individual who fails to comply with the requirements described in the preceding paragraph;
- ▶ requires DOPL to develop an online tutorial and test relating to the use of the database and the prescribing of a controlled substance;
- ▶ requires DOPL to impose a fee on an individual who takes the test described in this bill to pay the costs incurred by DOPL to fulfill the requirements described in this

- 32 bill;
- 33 ▶ grants rulemaking authority to DOPL; and
- 34 ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **26-1-36**, as last amended by Laws of Utah 2008, Chapter 313
- 42 **58-17b-201**, as last amended by Laws of Utah 2005, Chapter 248
- 43 **58-37-6**, as last amended by Laws of Utah 2009, Chapters 42 and 183
- 44 **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368

45 ENACTS:

- 46 **58-37f-101**, Utah Code Annotated 1953
- 47 **58-37f-102**, Utah Code Annotated 1953
- 48 **58-37f-201**, Utah Code Annotated 1953
- 49 **58-37f-202**, Utah Code Annotated 1953
- 50 **58-37f-203**, Utah Code Annotated 1953
- 51 **58-37f-301**, Utah Code Annotated 1953
- 52 **58-37f-302**, Utah Code Annotated 1953
- 53 **58-37f-401**, Utah Code Annotated 1953
- 54 **58-37f-402**, Utah Code Annotated 1953
- 55 **58-37f-501**, Utah Code Annotated 1953
- 56 **58-37f-601**, Utah Code Annotated 1953
- 57 **58-37f-602**, Utah Code Annotated 1953
- 58 **58-37f-701**, Utah Code Annotated 1953

59 RENUMBERS AND AMENDS:

- 60 **58-37f-502**, (Renumbered from 58-37-7.7, as last amended by Laws of Utah 2006,
- 61 Chapter 46)
- 62 **58-37f-801**, (Renumbered from 58-37-7.8, as enacted by Laws of Utah 2008, Chapter

313)

REPEALS:

58-37-7.5, as last amended by Laws of Utah 2009, Chapter 41

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-1-36** is amended to read:

26-1-36. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain.

(1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section 26-1-30, the department shall develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:

(a) investigate the causes of and risk factors for death and nonfatal complications of prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section ~~[58-37-7.5]~~ 58-37f-201;

(b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;

(c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and

(d) educate the public regarding:

(i) the purpose of the Controlled Substance Database established in Section ~~[58-37-7.5]~~ 58-37f-201; and

(ii) the requirement that a person's name and prescription information be recorded on the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

(3) The department shall report on the development and implementation of the program required in Subsection (2) to the legislative Health and Human Services Interim

Committee and the legislative Business and Labor Interim Committee no later than the November interim meetings in 2008 and 2009. Each report shall include:

(a) recommendations on:

(i) use of the Utah Controlled Substance Database created in Section ~~[58-37-7.5]~~

58-37f-201 to identify and prevent:

(A) misuse of opiates;

(B) inappropriate prescribing; and

(C) adverse outcomes of prescription opiate medications;

(ii) interventions to prevent the diversion of prescription opiate medications; and

(iii) medical treatment and quality care guidelines that are:

(A) scientifically based; and

(B) peer reviewed; and

(b) (i) a measure of results against expectations under the program as of the date of the report; and

(ii) an analysis of the application of the program, use of the appropriated funds, and the impact and results of the use of the funds.

(4) The report provided under Subsection (3) for the 2008 interim shall also provide a final cumulative analysis of the measurable effectiveness of the program implemented under this section.

Section 2. Section **58-17b-201** is amended to read:

58-17b-201. Board -- Membership -- Qualifications -- Terms.

(1) There is created the Utah State Board of Pharmacy consisting of five pharmacists, one pharmacy technician, and one member of the general public.

(a) The public member of the board shall be a Utah resident who:

(i) is 21 years of age or older;

(ii) has never been licensed to engage in the practice of pharmacy;

(iii) has never been the spouse of a person licensed to engage in the practice of pharmacy;

(iv) has never held any material financial interest in pharmacy practice; and

(v) has never engaged in any activity directly related to the practice of pharmacy.

(b) The licensed pharmacist and licensed pharmacy technician members of the board

125 shall:

126 (i) have been Utah residents continuously for at least three years;

127 (ii) have at least five years experience in the practice of pharmacy in good standing
128 with the division in Utah after licensure; and

129 (iii) maintain licensure in good standing to engage in the practice of pharmacy or
130 practice as a pharmacy technician in Utah for the duration of the appointment.

131 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

132 (3) The duties and responsibilities of the board are in accordance with Sections
133 58-1-202 and 58-1-203, and as required under Section ~~[58-37-7.5]~~ 58-37f-202 regarding the
134 controlled substance database. In addition, the board shall designate an appropriate member on
135 a permanent or rotating basis to:

136 (a) assist the division in reviewing complaints concerning the unlawful or
137 unprofessional conduct of a licensee; and

138 (b) advise the division in its investigation of these complaints.

139 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
140 in its investigation may be disqualified from participating with the board when the board serves
141 as a presiding officer in an adjudicative proceeding concerning the complaint.

142 (5) A board member may be removed in accordance with Subsection 58-1-201(2)(e) or
143 upon one of the following grounds:

144 (a) refusal or inability for any reason of a board member to perform his duties as a
145 member of the Board in an efficient, responsible, and professional manner;

146 (b) misuse of appointment to obtain personal, pecuniary, or material gain or advantage
147 for himself or another through such appointment; or

148 (c) violation of the laws governing the practice of pharmacy or Chapter 37, Utah
149 Controlled Substances Act.

150 Section 3. Section ~~58-37-6~~ is amended to read:

151 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
152 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
153 **required -- Prescriptions.**

154 (1) (a) The division may adopt rules relating to the licensing and control of the
155 manufacture, distribution, production, prescription, administration, dispensing, conducting of

research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules II through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules II through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules II through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the person's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses any controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or any person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if consistent with the public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest. The division shall not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance. In determining public interest, the division shall consider whether or not the applicant has:

(i) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into other than legitimate medical, scientific, or industrial channels;

(ii) complied with applicable state and local law;

(iii) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(iv) past experience in the manufacture of controlled dangerous substances;

(v) established effective controls against diversion; and

(vi) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in

research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this act in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon furnishing the division evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal license denied, suspended, or revoked by competent federal authority and is no longer authorized to engage in the manufacturing, distribution, or dispensing of controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice;

or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled

substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) Every physician, dentist, naturopathic physician, veterinarian, practitioner, or other person who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by him and a record of all drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

(ii) A person using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the person keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by him, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) A person may not write or authorize a prescription for a controlled substance unless the person is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) A person other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, a person may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the following restrictions:

(i) (A) A prescription for a Schedule II substance may not be refilled.

(B) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(ii) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(iii) All other controlled substances in Schedule V may be refilled as the prescriber's

prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(iv) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(v) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply;

(C) a second or third prescription shall include the date of issuance and the date for dispensing; and

(D) unless the practitioner determines there is a valid medical reason to the contrary, the date for dispensing a second or third prescription may not be fewer than 30 days from the dispensing date of the previous prescription.

(vi) Each prescription for a controlled substance may contain only one controlled substance per prescription form and may not contain any other legend drug or prescription item.

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have

violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection ~~58-37-7.7~~ 58-37f-502(1).

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (7)(j) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (7)(o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

Section 4. Section **58-37f-101** is enacted to read:

CHAPTER 37f. CONTROLLED SUBSTANCE DATABASE ACT

Part 1. General Provisions

58-37f-101. Title.

This chapter is known as the "Controlled Substance Database Act."

Section 5. Section **58-37f-102** is enacted to read:

58-37f-102. Definitions.

(1) The definitions in Section 58-37-2 apply to this chapter.

(2) As used in this chapter:

(a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(b) "Database" means the controlled substance database created in this section.

(c) "Database manager" means the person responsible for operating the database, or the person's designee.

(d) "Health care facility" is as defined in Section 26-21-2.

(e) "Mental health therapist" is as defined in Section 58-60-102.

(f) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.

(g) "Prospective patient" means an individual who:

(i) is seeking medical advice, medical treatment, or medical services from a practitioner; and

(ii) the practitioner described in Subsection (2)(g)(i) is considering accepting as a patient.

(h) "Substance abuse treatment program" is as defined in Section 62A-2-101.

Section 6. Section **58-37f-201** is enacted to read:

Part 2. Controlled Substance Database

58-37f-201. Controlled substance database -- Creation -- Purpose.

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(5) The purpose of the database is to contain the data described in Section 58-37f-203 regarding every prescription for a controlled substance dispensed in the state to any individual other than an inpatient in a licensed health care facility.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; and

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy.

Section 7. Section **58-37f-202** is enacted to read:

58-37f-202. Duties of board in relation to the database.

The board shall advise the division regarding:

- (1) establishing, maintaining, and operating the database;
- (2) access to the database and how access is obtained; and
- (3) control of information contained in the database.

Section 8. Section **58-37f-203** is enacted to read:

58-37f-203. Submission, collection, and maintenance of data.

(1) The pharmacist in charge of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the manager of the database:

- (a) in accordance with the requirements of this section;
- (b) in accordance with the procedures established by the division; and
- (c) in the format established by the division.

(2) The pharmacist described in Subsection (1) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the manager of the database the following information:

- (a) the name of the prescribing practitioner;
- (b) the date of the prescription;
- (c) the date the prescription was filled;
- (d) the name of the individual for whom the prescription was written;
- (e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;
- (f) the name of the controlled substance;
- (g) the quantity of the controlled substance prescribed;
- (h) the strength of the controlled substance;
- (i) the quantity of the controlled substance dispensed;
- (j) the dosage quantity and frequency as prescribed;
- (k) the name of the drug outlet dispensing the controlled substance;

(l) the name of the pharmacist dispensing the controlled substance; and

(m) other relevant information as required by division rule.

(3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the electronic format in which the information required under this section shall be submitted to the database manager.

(b) The division shall ensure that the database system records and maintains for reference:

(i) the identification of each individual who requests or receives information from the database;

(ii) the information provided to each individual; and

(iii) the date and time that the information is requested or provided.

Section 9. Section **58-37f-301** is enacted to read:

Part 3. Access

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The database manager shall make information in the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) employees of the Department of Health whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, provided that the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific

528 studies;
529 (d) a licensed practitioner having authority to prescribe controlled substances, to the
530 extent the information:
531 (i) (A) relates specifically to a current or prospective patient of the practitioner; and
532 (B) is sought by the practitioner for the purpose of:
533 (I) prescribing or considering prescribing any controlled substance to the current or
534 prospective patient;
535 (II) diagnosing the current or prospective patient;
536 (III) providing medical treatment or medical advice to the current or prospective
537 patient; or
538 (IV) determining whether the current or prospective patient:
539 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;
540 or
541 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
542 substance from the practitioner;
543 (ii) (A) relates specifically to a former patient of the practitioner; and
544 (B) is sought by the practitioner for the purpose of determining whether the former
545 patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled
546 substance from the practitioner;
547 (iii) relates specifically to an individual who has access to the practitioner's Drug
548 Enforcement Administration identification number, and the practitioner suspects that the
549 individual may have used the practitioner's Drug Enforcement Administration identification
550 number to fraudulently acquire or prescribe a controlled substance;
551 (iv) relates to the practitioner's own prescribing practices, except when specifically
552 prohibited by the division by administrative rule;
553 (v) relates to the use of the controlled substance database by an employee of the
554 practitioner, described in Subsection (2)(e); or
555 (vi) relates to any use of the practitioner's Drug Enforcement Administration
556 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a
557 controlled substance;
558 (e) in accordance with Subsection (3)(a), an employee of a practitioner described in

559 Subsection (2)(d), for a purpose described in Subsection (2)(d)(i) or (ii), if:
560 (i) the employee is designated by the practitioner as an individual authorized to access
561 the information on behalf of the practitioner;
562 (ii) the practitioner provides written notice to the division of the identity of the
563 employee; and
564 (iii) the division:
565 (A) grants the employee access to the database; and
566 (B) provides the employee with a password that is unique to that employee to access
567 the database in order to permit the division to comply with the requirements of Subsection
568 58-37f-203(3)(b) with respect to the employee;
569 (f) a licensed pharmacist having authority to dispense a controlled substance to the
570 extent the information is sought for the purpose of:
571 (i) dispensing or considering dispensing any controlled substance; or
572 (ii) determining whether a person:
573 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or
574 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
575 substance from the pharmacist;
576 (g) federal, state, and local law enforcement authorities, and state and local
577 prosecutors, engaged as a specified duty of their employment in enforcing laws:
578 (i) regulating controlled substances; or
579 (ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud;
580 (h) a mental health therapist, if:
581 (i) the information relates to a patient who is:
582 (A) enrolled in a licensed substance abuse treatment program; and
583 (B) receiving treatment from, or under the direction of, the mental health therapist as
584 part of the patient's participation in the licensed substance abuse treatment program described
585 in Subsection (2)(h)(i)(A);
586 (ii) the information is sought for the purpose of determining whether the patient is
587 using a controlled substance while the patient is enrolled in the licensed substance abuse
588 treatment program described in Subsection (2)(h)(i)(A); and
589 (iii) the licensed substance abuse treatment program described in Subsection

(2)(h)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(h), from the database; and

(i) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the database manager that the individual requesting the information is in fact the individual about whom the data entry was made.

(3) (a) A practitioner described in Subsection (2)(d) may designate up to three employees to access information from the database under Subsection (2)(e).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish background check procedures to determine whether an employee designated under Subsection (2)(e)(i) should be granted access to the database.

(c) The division shall grant an employee designated under Subsection (2)(e)(i) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(e)(i), to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(4) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Section 10. Section **58-37f-302** is enacted to read:

58-37f-302. Other restrictions on access to database.

(1) A person who is a relative of a deceased individual is not entitled to access information from the database relating to the deceased individual based on the fact or claim

621 that the person is:

622 (a) related to the deceased individual; or

623 (b) subrogated to the rights of the deceased individual.

624 (2) Except as provided in Subsection (3), data provided to, maintained in, or accessed
625 from the database that may be identified to, or with, a particular person is not subject to
626 discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or
627 legislative proceeding, nor shall any individual or organization with lawful access to the data
628 be compelled to testify with regard to the data.

629 (3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or
630 administrative action brought to enforce the provisions of this chapter.

631 Section 11. Section **58-37f-401** is enacted to read:

632 **Part 4. Registration and Training**

633 **58-37f-401. Database registration required -- Penalties for failure to register.**

634 (1) Each individual who, on July 1, 2010, has a license to prescribe a controlled
635 substance under Title 37, Utah Controlled Substance Act, but is not registered with the division
636 to use the database shall, on or before September 30, 2010:

637 (a) register with the division to use the database; and

638 (b) participate in the online tutorial and pass the online test described in Section
639 58-37f-402.

640 (2) Each individual who, on July 1, 2010, is registered with the division to use the
641 database shall, on or before September 30, 2010, participate in the online tutorial and pass the
642 online test described in Section 58-37f-402.

643 (3) An individual may not obtain or renew a license to prescribe a controlled substance
644 under Title 37, Utah Controlled Substance Act, unless the individual registers with the division
645 to use the database.

646 (4) Beginning on July 1, 2010, in order to register to use the database, the individual
647 registering must participate in the online tutorial and pass the online test described in Section
648 58-37f-402.

649 (5) Failure by an individual to comply with the requirements of this section is grounds
650 for the division to take the following actions in accordance with Section 58-1-401:

651 (a) refuse to issue a license to the individual;

(b) refuse to renew the individual's license; or

(c) revoke, suspend, restrict, or place on probation the license.

Section 12. Section **58-37f-402** is enacted to read:

58-37f-402. Online tutorial and test relating to the database -- Fees -- Rulemaking authority.

(1) The division shall develop an online tutorial and an online test for registration to use the database that provides instruction regarding, and tests, the following:

(a) the purpose of the database;

(b) how to access and use the database;

(c) the law relating to:

(i) the use of the database; and

(ii) the information submitted to, and obtained from, the database; and

(d) basic knowledge that is important for all people who prescribe controlled substances to know in order to help ensure the health and safety of an individual to whom a controlled substance is prescribed.

(2) The division shall design the test described in this section as follows:

(a) an individual shall answer all of the questions correctly in order to pass the test;

(b) an individual shall be permitted to immediately retake the portion of the test that the individual answers incorrectly as many times as necessary for the individual to pass the test;

(c) after an individual takes the test, the test software shall:

(i) immediately inform the individual of the number of questions that were answered incorrectly;

(ii) provide the correct answers;

(iii) replay the portion of the tutorial that relates to the incorrectly answered questions;

and

(iv) ask the individual the incorrectly answered questions again.

(3) The division shall design the tutorial and test so that it is possible to take the tutorial and complete the test in 20 minutes or less, if the individual answers all of the questions correctly on the first attempt.

(4) The division shall ensure that the tutorial and test described in this section are fully functional and available for use online on or before July 1, 2010.

(5) The division shall impose a fee, in accordance with Section 63J-1-504, on an individual who takes the test described in this section, to pay the costs incurred by the division to:

(a) develop, implement, and administer the tutorial and test described in this section;

and

(b) fulfill the other duties imposed on the division under this part.

(6) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) develop, implement, and administer the tutorial and test described in this section; and

(b) fulfill the other duties imposed on the division under this part.

Section 13. Section **58-37f-501** is enacted to read:

Part 5. Costs and Funding

58-37f-501. Costs of operating database and recording and submitting data.

(1) All department and division costs necessary to establish and operate the database shall be funded by appropriations from:

(a) the Commerce Service Fund; and

(b) the General Fund.

(2) All costs associated with recording and submitting data as required in this chapter shall be assumed by the submitting pharmacy.

Section 14. Section **58-37f-502**, which is renumbered from Section 58-37-7.7 is renumbered and amended to read:

[58-37-7.7]. 58-37f-502. Use of dedicated credits -- Controlled Substance Database -- Collection of penalties.

(1) The director may use the monies deposited in the General Fund as a dedicated credit under Subsections 58-37-6(8)(a), ~~[58-37-7.5(11)(c), and 58-37-7.5(12)(b)]~~ 58-37f-601(3)(d), and 58-37f-602(2) for the following purposes:

(a) maintenance and replacement of the database equipment, including hardware and software;

(b) training of staff; and

(c) pursuit of external grants and matching funds.

(2) The director of the division may collect any penalty imposed under Subsections 58-37-6(8)(a), ~~[58-37-7.5(11)(c), and 58-37-7.5(12)(b)]~~ 58-37f-601(3)(d), and 58-37f-602(2) and which is not paid by:

(a) referring the matter to the Office of State Debt Collection or a collection agency; or

(b) bringing an action in the district court of the county in which the person owing the debt resides or in the county where the office of the director is located.

(3) The director may seek legal assistance from the attorney general or the county or district attorney of the district in which the action is brought to collect the fine.

(4) The court shall award reasonable attorney's fees and costs to the division for successful collection actions under Subsection (2)(b).

(5) All funding of the ~~[controlled substance]~~ database ~~[as defined under Section 58-37-7.5]~~ is nonlapsing.

Section 15. Section **58-37f-601** is enacted to read:

Part 6. Penalties

58-37f-601. Unlawful release or use of database information -- Criminal and Civil Penalties.

(1) Any person who knowingly and intentionally releases any information in the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony.

(2) (a) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the database for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.

(3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person any information obtained from the database for any purpose other than those specified in Part 3, Access.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) Nothing in this Subsection (3) prohibits a person who obtains information from the database under Subsection 58-37f-301(2)(d) or (e) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

Section 16. Section **58-37f-602** is enacted to read:

58-37f-602. Failure by pharmacist to submit information -- Penalties.

(1) The failure of a pharmacist in charge to submit information to the database as required under Section 58-37f-203, after the division has submitted a specific written request for the information or when the division determines the individual has a demonstrable pattern of failing to submit the information as required, is grounds for the division to take the following actions in accordance with Section 58-1-401:

(a) refuse to issue a license to the individual;

(b) refuse to renew the individual's license;

(c) revoke, suspend, restrict, or place on probation the license;

(d) issue a public or private reprimand to the individual;

(e) issue a cease and desist order; and

(f) impose a civil penalty of not more than \$1,000 for each dispensed prescription regarding which the required information is not submitted.

(2) Civil penalties assessed under Subsection (1)(f) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(3) The procedure for determining a civil violation of this section shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

Section 17. Section **58-37f-701** is enacted to read:

Part 7. Miscellaneous

58-37f-701. Immunity from liability.

An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information.

Section 18. Section **58-37f-801**, which is renumbered from Section 58-37-7.8 is renumbered and amended to read:

Part 8. Pilot Program

~~[58-37-7.8].~~ 58-37f-801. Pilot program for real-time reporting for controlled substance database -- Statewide implementation.

(1) ~~[(a)]~~ As used in this section:

~~[(i)]~~ (a) "Pilot area" means the areas of the state that the division determines to operate the pilot program in, under Subsection (3), which may include:

~~[(A)]~~ (i) the entire state; or

~~[(B)]~~ (ii) geographical areas within the state.

~~[(ii)]~~ (b) "Pilot program" means the pilot program described in this section.

~~[(b) The definitions in Subsection 58-37-7.5(1) apply to this section.]~~

(2) There is established a pilot program for real-time reporting of data to, and access to data from, the database by a pharmacy, a pharmaceutical facility, or a prescribing practitioner beginning on July 1, 2008, and ending on July 1, 2010.

(3) In addition to fulfilling the requirements ~~[of Sections 58-37-7.5 and 58-37-7.7]~~ relating to the database on a statewide basis, the division shall, in accordance with Subsection (4), upgrade, administer, and direct the functioning of the database in geographical areas specified by the division, or on a statewide basis, in a manner that provides for real-time reporting of information entered into, and accessed from, the database by a pharmacy or pharmaceutical facility.

(4) The division shall, under state procurement laws, and with the technical assistance of the Department of Technology Services, contract with a private entity to upgrade, operate, and maintain the database in the pilot area.

(5) (a) All provisions and requirements of the statewide database, described in ~~[Sections 58-37-7.5 and 58-37-7.7]~~ the other parts of this chapter, are applicable to the database in the pilot area, to the extent that they do not conflict with the requirements of this section.

(b) For purposes of ~~[Section 58-37-7.5, Section 58-37-7.7]~~ the other parts of this chapter, and this section, the database in the pilot area is considered part of the statewide database.

(6) A pharmacy or pharmaceutical facility shall cooperate with the division, or the division's designee, to provide real-time submission of, and access to, information for the database:

(a) in the pilot area; and

(b) when the division implements the pilot program as a permanent program under Subsection (10), on a statewide basis.

(7) The penalties and enforcement provisions described in [~~Sections 58-37-7.5 and 58-37-7.7~~] the other parts of this chapter apply to enforce the provisions of this section in relation to a pharmacy or pharmaceutical facility that is located in, or operates in, the pilot area.

(8) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the real-time reporting of, and access to, information in accordance with the requirements of this section.

(9) During the Legislature's 2009 interim, the division shall report to the Health and Human Services Interim Committee regarding:

(a) the implementation, operation, and impact of the pilot program established in this section;

(b) the progress made by the division in implementing the pilot program on a statewide basis;

(c) the advisability of, and projected costs of, implementing the pilot program on a statewide basis; and

(d) the use of the database by prescribing practitioners.

(10) The division shall, on or before July 1, 2010, implement the pilot program as a permanent program on a statewide basis.

(11) (a) The division shall, through the private entity contracted with under Subsection (4), provide, free of charge, to a pharmacy or pharmaceutical facility that is required to comply with Subsection (6), software, software installation assistance, and training, that will enable the pharmacy or pharmaceutical facility to comply with Subsection (6).

(b) Notwithstanding Subsection (11)(a), a pharmacy or pharmaceutical facility required to comply with Subsection (6) may, instead of accepting installation of the software provided by the division under Subsection (11)(a), modify its own software in order to comply with the requirements of Subsection (6), if the modification is made:

(i) except as provided in Subsection (11)(d), at the expense of the pharmacy or pharmaceutical facility;

(ii) in consultation with the division; and

(iii) within six months after the division notifies the pharmacy or pharmaceutical facility, in writing, of the division's intention to install the software described in Subsection (11)(a).

(c) The division shall, through the private entity contracted with under Subsection (4), cooperate with a pharmacy or pharmaceutical facility that is required to comply with Subsection (6), to ensure that the installation and operation of the software described in Subsection (11)(a), or the provision of information from the pharmacy or pharmaceutical facility to the database:

(i) complies with the security standards described in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards;

(ii) does not interfere with the proper functioning of the pharmacy's or pharmaceutical facility's software or computer system; and

(iii) in order to minimize changes in existing protocols, provides, to the extent practicable, for the transmission of data in the same manner that pharmacies currently transmit information to insurance companies.

(d) The division may, within funds appropriated by the Legislature for this purpose, reimburse a pharmacy for all or part of the costs of the in-house programming described in Subsection (11)(b), if:

(i) the pharmacy requests the reimbursement, in writing;

(ii) the pharmacy provides proof of the costs for the in-house programming to the division;

(iii) the pharmacy requests the reimbursement prior to a deadline established by the division; and

(iv) except as provided in Subsection (11)(e), the division pays an equal reimbursement amount to each pharmacy that complies with Subsections (11)(d)(i) through (iii).

(e) The division may reimburse a pharmacy described in Subsection (11)(d)(iv) for an amount that is less than the reimbursement paid to other pharmacies described in Subsection (11)(d)(iv), if:

(i) the proof of costs for in-house programming provided by the pharmacy establishes a cost less than the amount reimbursed to the other pharmacies; and

(ii) the amount reimbursed to the pharmacy is equal to the amount established by the proof of costs for in-house programming submitted by the pharmacy.

(f) Notwithstanding any other provision of this section, the division may, by rule, allow up to 24 hours for the reporting of data to the database by a non-resident pharmacy, as defined in Section 58-17b-102.

Section 19. Section **63J-1-602** is amended to read:

63J-1-602. Nonlapsing accounts and funds.

(1) The following revenue collections, appropriations from a fund or account, and appropriations to a program are nonlapsing:

(a) appropriations made to the Legislature and its committees;

(b) funds collected by the grain grading program, as provided in Section 4-2-2;

(c) the Salinity Offset Fund created in Section 4-2-8.5;

(d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;

(e) funds collected by pesticide dealer license registration fees, as provided in Section 4-14-3;

(f) funds collected by pesticide applicator business registration fees, as provided in Section 4-14-13;

(g) the Rangeland Improvement Fund created in Section 4-20-2;

(h) funds deposited as dedicated credits under the Insect Infestation Emergency Control Act, as provided in Section 4-35-6;

(i) the Percent-for-Art Program created in Section 9-6-404;

(j) the Centennial History Fund created in Section 9-8-604;

(k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;

(l) the Navajo Revitalization Fund created in Section 9-11-104;

(m) the LeRay McAllister Critical Land Conservation Program created in Section 11-38-301;

(n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;

(o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in Section 19-6-120;

(p) an appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;

(q) award monies under the Crime Reduction Assistance Program, as provided under Section 24-1-19;

(r) funds collected from the emergency medical services grant program, as provided in Section 26-8a-207;

(s) fees and other funding available to purchase training equipment and to administer tests and conduct quality assurance reviews, as provided in Section 26-8a-208;

(t) funds collected as a result of a sanction under Section 1919 of Title XIX of the federal Social Security Act, as provided in Section 26-18-3;

(u) the Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102;

(v) monies collected from subscription fees for publications prepared or distributed by the insurance commissioner, as provided in Section 31A-2-208;

(w) monies received by the Insurance Department for administering, investigating under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;

(x) certain monies received for penalties paid under the Insurance Fraud Act, as provided in Section 31A-31-109;

(y) the fund for operating the state's Federal Health Care Tax Credit Program, as provided in Section 31A-38-104;

(z) certain funds in the Department of Workforce Services' program for the education, training, and transitional counseling of displaced homemakers, as provided in Section 35A-3-114;

(aa) the Employment Security Administration Fund created in Section 35A-4-505;

(bb) the Special Administrative Expense Fund created in Section 35A-4-506;

(cc) funding for a new program or agency that is designated as nonlapsing under Section 36-24-101;

(dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;

(ee) funds available to the State Tax Commission for purchase and distribution of license plates and decals, as provided in Section 41-1a-1201;

(ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as

931 provided in Section 41-1a-1221;

932 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business

933 Regulation Act, as provided in Section 41-3-601;

934 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business

935 Regulation Act, as provided in Section 41-3-604;

936 (ii) the Off-Highway Access and Education Restricted Account created in Section

937 41-22-19.5;

938 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as

939 provided in Section 41-22-36;

940 (kk) monies collected under the Notaries Public Reform Act, as provided under

941 46-1-23;

942 (ll) certain funds associated with the Law Enforcement Operations Account, as

943 provided in Section 51-9-411;

944 (mm) the Public Safety Honoring Heroes Restricted Account created in Section

945 53-1-118;

946 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in

947 Section 53-2-107;

948 (oo) appropriations made to the Department of Public Safety from the Department of

949 Public Safety Restricted Account, as provided in Section 53-3-106;

950 (pp) appropriations to the Motorcycle Rider Education Program, as provided in Section

951 53-3-905;

952 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention

953 and Safety Act, as provided in Section 53-7-314;

954 (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

955 (ss) the minimum school program, as provided in Section 53A-17a-105;

956 (tt) certain funds appropriated from the Uniform School Fund to the State Board of

957 Education for new teacher bonus and performance-based compensation plans, as provided in

958 Section 53A-17a-148;

959 (uu) certain funds appropriated from the Uniform School Fund to the State Board of

960 Education for implementation of proposals to improve mathematics achievement test scores, as

961 provided in Section 53A-17a-152;

962 (vv) the School Building Revolving Account created in Section 53A-21-401;
963 (ww) monies received by the State Office of Rehabilitation for the sale of certain
964 products or services, as provided in Section 53A-24-105;
965 (xx) the State Board of Regents, as provided in Section 53B-6-104;
966 (yy) certain funds appropriated from the General Fund to the State Board of Regents
967 for teacher preparation programs, as provided in Section 53B-6-104;
968 (zz) a certain portion of monies collected for administrative costs under the School
969 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;
970 (aaa) certain surcharges on residence and business telecommunications access lines
971 imposed by the Public Service Commission, as provided in Section 54-8b-10;
972 (bbb) certain fines collected by the Division of Occupational and Professional
973 Licensing for violation of unlawful or unprofessional conduct that are used for education and
974 enforcement purposes, as provided in Section 58-17b-505;
975 (ccc) the Nurse Education and Enforcement Fund created in Section 58-31b-103;
976 (ddd) funding of the controlled substance database, as provided in Section ~~58-37-7.7~~
977 58-37f-502;
978 (eee) the Certified Nurse Midwife Education and Enforcement Fund created in Section
979 58-44a-103;
980 (fff) funding for the building inspector's education program, as provided in Section
981 58-56-9;
982 (ggg) certain fines collected by the Division of Occupational and Professional
983 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
984 provided in Section 58-63-103;
985 (hhh) the Professional Geologist Education and Enforcement Fund created in Section
986 58-76-103;
987 (iii) certain monies in the Water Resources Conservation and Development Fund, as
988 provided in Section 59-12-103;
989 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background
990 check for broker and sales agent licenses, as provided in Section 61-2-9;
991 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;
992 (lll) funds paid to the Division of Real Estate for the cost of a criminal background

993 check for a mortgage loan license, as provided in Section 61-2c-202;
994 (mmm) funds paid to the Division of Real Estate in relation to examination of records
995 in an investigation, as provided in Section 61-2c-401;
996 (nnn) certain funds donated to the Department of Human Services, as provided in
997 Section 62A-1-111;
998 (ooo) certain funds donated to the Division of Child and Family Services, as provided
999 in Section 62A-4a-110;
1000 (ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in
1001 Section 62A-13-109;
1002 (qqq) assessments for DUI violations that are forwarded to an account created by a
1003 county treasurer, as provided in Section 62A-15-503;
1004 (rrr) appropriations to the Division of Services for People with Disabilities, as provided
1005 in Section 62A-5-102;
1006 (sss) certain donations to the Division of Substance Abuse and Mental Health, as
1007 provided in Section 62A-15-103;
1008 (ttt) certain funds received by the Division of Parks and Recreation from the sale or
1009 disposal of buffalo, as provided under Section 63-11-19.2;
1010 (uuu) revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
1011 Park, or Jordan River State Park, as provided under Section 63-11-19.5;
1012 (vvv) revenue for golf user fees at the Green River State Park, as provided under
1013 Section 63-11-19.6;
1014 (www) the Centennial Nonmotorized Paths and Trail Crossings Program created under
1015 Section 63-11a-503;
1016 (xxx) the Bonneville Shoreline Trail Program created under Section 63-11a-504;
1017 (yyy) the account for the Utah Geological Survey, as provided in Section 63-73-10;
1018 (zzz) the Risk Management Fund created under Section 63A-4-201;
1019 (aaaa) the Child Welfare Parental Defense Fund created in Section 63A-11-203;
1020 (bbbb) the Constitutional Defense Restricted Account created in Section 63C-4-103;
1021 (cccc) a portion of the funds appropriated to the Utah Seismic Safety Commission, as
1022 provided in Section 63C-6-104;
1023 (dddd) funding for the Medical Education Program administered by the Medical

1024 Education Council, as provided in Section 63C-8-102;
1025 (eeee) certain monies payable for commission expenses of the Pete Suazo Utah
1026 Athletic Commission, as provided under Section 63C-11-301;
1027 (ffff) funds collected for publishing the Division of Administrative Rules' publications,
1028 as provided in Section 63G-3-402;
1029 (gggg) the appropriation to fund the Governor's Office of Economic Development's
1030 Enterprise Zone Act, as provided in Section 63M-1-416;
1031 (hhhh) the Tourism Marketing Performance Account, as provided in Section
1032 63M-1-1406;
1033 (iiii) certain funding for rural development provided to the Office of Rural
1034 Development in the Governor's Office of Economic Development, as provided in Section
1035 63M-1-1604;
1036 (jjjj) certain monies in the Development for Disadvantaged Rural Communities
1037 Restricted Account, as provided in Section 63M-1-2003;
1038 (kkkk) appropriations to the Utah Science Technology and Research Governing
1039 Authority, created under Section 63M-2-301, as provided under Section 63M-3-302;
1040 (llll) certain monies in the Rural Broadband Service Fund, as provided in Section
1041 63M-1-2303;
1042 (mmmm) funds collected from monthly offender supervision fees, as provided in
1043 Section 64-13-21.2;
1044 (nnnn) funds collected by the housing of state probationary inmates or state parole
1045 inmates, as provided in Subsection 64-13e-104(2);
1046 (oooo) the Sovereign Lands Management account created in Section 65A-5-1;
1047 (pppp) certain forestry and fire control funds utilized by the Division of Forestry, Fire,
1048 and State Lands, as provided in Section 65A-8-103;
1049 (qqqq) the Department of Human Resource Management user training program, as
1050 provided in Section 67-19-6;
1051 (rrrr) funds for the University of Utah Poison Control Center program, as provided in
1052 Section 69-2-5.5;
1053 (ssss) appropriations to the Transportation Corridor Preservation Revolving Loan
1054 Fund, as provided in Section 72-2-117;

1055 (tttt) appropriations to the Local Transportation Corridor Preservation Fund, as
1056 provided in Section 72-2-117.5;

1057 (uuuu) appropriations to the Tollway Restricted Special Revenue Fund, as provided in
1058 Section 77-2-120;

1059 (vvvv) appropriations to the Aeronautics Construction Revolving Loan Fund, as
1060 provided in Section 77-2-122;

1061 (www) appropriations to the State Park Access Highways Improvement Program, as
1062 provided in Section 72-3-207;

1063 (xxxx) the Traffic Noise Abatement Program created in Section 72-6-112;

1064 (yyyy) certain funds received by the Office of the State Engineer for well drilling fines
1065 or bonds, as provided in Section 73-3-25;

1066 (zzzz) certain monies appropriated to increase the carrying capacity of the Jordan River
1067 that are transferred to the Division of Parks and Recreation, as provided in Section 73-10e-1;

1068 (aaaa) certain fees for the cost of electronic payments under the State Boating Act, as
1069 provided in Section 73-18-25;

1070 (bbbb) certain monies appropriated from the Water Resources Conservation and
1071 Development Fund, as provided in Section 73-23-2;

1072 (ccccc) the Lake Powell Pipeline Project Operation and Maintenance Fund created in
1073 Section 73-28-404;

1074 (ddddd) certain funds in the Water Development and Flood Mitigation Reserve
1075 Account, as provided in Section 73-103-1;

1076 (eeee) certain funds appropriated for compensation for special prosecutors, as
1077 provided in Section 77-10a-19;

1078 (ffff) the Indigent Aggravated Murder Defense Trust Fund created in Section
1079 77-32-601;

1080 (ggggg) the Indigent Felony Defense Trust Fund created in Section 77-32-701;

1081 (hhhhh) funds donated or paid to a juvenile court by private sources, as provided in
1082 Subsection 78A-6-203(c);

1083 (iiii) a state rehabilitative employment program, as provided in Section 78A-6-210;
1084 and

1085 (jjjj) fees from the issuance and renewal of licenses for certified court interpreters, as

1086 provided in Section 78B-1-146.

1087 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
1088 program may be treated as nonlapsing unless:

1089 (a) it is expressly referenced by this section;

1090 (b) it is designated in a condition of appropriation in the appropriations bill; or

1091 (c) nonlapsing authority is granted under Section 63J-1-603.

1092 (3) Each legislative appropriations subcommittee shall review the accounts and funds
1093 that have been granted nonlapsing authority under this section or Section 63J-1-603.

1094 Section 20. **Repealer.**

1095 This bill repeals:

1096 Section **58-37-7.5, Controlled substance database -- Pharmacy reporting**
1097 **requirements -- Access -- Penalties.**